

# Closing Conference Guide

Your workplace has been inspected by the Indiana Occupational Safety and Health Administration (AIOSHA@). Whether you are management or employee, the inevitable question is AWhat happens next?@ This short guide is intended to answer that question and to highlight contacts who may provide additional information in response to your special concerns. It is IOSHA=s hope that the question and answer format will provide easy access to the information you need, but an index

of key words is also provided.

If you have additional questions about how to proceed, please do not hesitate to contact us at the numbers indicated.

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- 1. When will I be notified of the results of the inspection?**

- < You will be offered a closing conference at which the compliance officer will provide a closing conference worksheet. @ That worksheet identifies each hazard noted during the walkaround portion of the inspection.
- < Occasionally, the compliance officer or his/her supervisor will notice additional hazards when preparing or reviewing the inspection file. If this happens, you will be offered another closing conference and another worksheet.
- < If the compliance officer found hazards during the inspection, you will also receive safety orders and notification of proposed penalties by mail.
- < If the compliance officer has informed you that s/he noted hazards which may be referred to a division of IOSHA with a different specialty, you may consider any activity related to that referral a separate IOSHA inspection.

## **2. Will I have to pay a fine?**

- < If you are the employer and the safety orders you receive list penalty amounts, the answer is AYES. @ Only participating in an informal conference or filing a notice of contest as described below affects this answer.
- < IOSHA does not have the power to fine individual employees or unions.

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**CORRECTING THE VIOLATIONS DESCRIBED IN THE SAFETY ORDERS DOES NOT RELIEVE AN EMPLOYER OF THE OBLIGATION TO PAY THE FINES INDICATED ON THE SAFETY ORDERS/NOTIFICATION OF PENALTIES.**

## **3. What do I have to do with the Safety Orders/Notification of Penalties?**

- < Employers must post the safety orders at or near the place each described violation occurred for three working days or until the violation is corrected, whichever period is LONGER.
- < Employers must post the safety orders and notification of penalties even if the employer contests the safety orders.
- < Additional inspections may be conducted to ensure compliance with this requirement and failure to comply may result in additional fines.

## **4. What if I disagree with the safety orders/penalties or (if I'm an employee or union representative) abatement dates.**

Within Fifteen Working Days (Monday through Friday, but not state holidays) :

- < Telephone I OSHA and request an informal conference; and/or
- < File a written petition for review/contest, which ultimately leads to an opportunity to argue formally that the safety orders and/or penalties are not proper before an administrative law judge.

## 5. What is an informal conference?

- < An opportunity to discuss settlement of any issue created by the inspection, safety orders and notification of penalty and abatement dates established by the safety orders.
- < An informal conference may be requested by: an employer who has received safety orders, affected employees or authorized employee representatives (unions).
- < If an informal conference is requested by an employer, the Director may afford an affected employee or union representative the right to participate.
- < If an informal conference is requested by an affected employee or union representative, the Director may afford the employer the right to participate.

## 6. How do I request an Informal Conference?

- < Informal conferences must be requested and conducted within **fifteen working days** (Monday through Friday but not state holidays) of your company's **receipt** of the safety orders/notification of penalties.
- < If you desire an informal conference, you should request it as soon as possible after you receive your safety orders/notification of penalties in order to ensure that a time slot is available for you during the fifteen day period.
- < Call the Director whose name and signature appears on your safety orders/notification of penalties at the appropriate number below.

Industrial Hygiene Dir.	Timothy Crouse	(317) 232-1987
Industrial Safety Dir.	James Dolder	(317) 232-2696
Construction Safety Dir.	Daniel F. Miller	(317) 232-0055

- < Informal conferences are usually held at the IDOL=s office or via phone.
- < Employers should complete the ANotice to Employees of Informal Conference@ included in the safety orders/notification of penalties packet and post it at or near where the violations occurred.

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REQUESTING AN INFORMAL CONFERENCE DOES NOT EXTEND THE FIFTEEN WORKING DAY PERIOD FROM YOUR RECEIPT OF SAFETY ORDERS IN WHICH YOU MAY FILE A PETITION FOR REVIEW/CONTEST OF THE SAFETY ORDERS.

## **7. What is a petition for review/contest of the safety orders/notification of penalties?**

- < For an employer, the notice of contest (also called petition for review) provides the opportunity to present evidence and argue about the safety orders/notification of penalties before an independent body called the Indiana Board of Safety Review.
- < For an affected employee or union representative, the notice of contest (also called a petition for review) provides the opportunity to present evidence and argue about the abatement dates established by the safety orders before an independent body called the Indiana Board of Safety Review.

## **8. How do I contest the safety orders/notifications of penalties?**

- < Postmark a written notice of contest/petition for review before midnight of the fifteenth (15<sup>th</sup>) working day after your company's receipt of the safety orders (Monday through Friday but not state holidays) addressed to:

IOSHA  
Indiana Department of Labor  
402 West Washington St., Room W195  
Indianapolis, IN 46204

- < Or transmit your written notice of contest/petition for review before midnight of the fifteenth (15<sup>th</sup>) working days to IOSHA at (317) 233B3790.
- < If you are an EMPLOYER, your notice of contest/petition for review must include the following:

- T The inspection number of the safety orders/notification of penalties you are contesting.
- T A specific statement of what you are contesting, e.g. all safety order items, all penalties, both, or specific safety order item numbers, penalties, or both.
- T A statement of the basis for the contest.

- < Must be posted at or near the place where the alleged violations took place so that affected employees may become aware of the contest.

- < If you are an affected EMPLOYEE or UNION REPRESENTATIVE, your notice of contest/petition for review should include the following:

- T The inspection number of the safety orders which contain the abatement date with which you disagree.
- T A specific statement of which items contain abatement dates which you contend are not reasonable.

## **9. What does IOSHA do after I file a notice of contest/petition for review?**

- < If your petition is not timely, IOSHA will deny the petition.
- < IOSHA has five working days to consider your notice of contest/petition for review.

< IOSHA may affirm, modify, alter or dismiss the safety orders, notification of penalties or abatement dates.

< If IOSHA affirms the safety orders, notification of penalties and abatement dates, it will notify you by mail that the dispute has been certified to the Indiana Board of Safety Review.

< If IOSHA modifies or alters the safety orders, notification of penalties or abatement dates, it will issue amended safety orders and employers, affected employees and union representatives have another fifteen (15) working day period in which to request an informal conference or file a notice of contest/petition for review of the amended safety orders/notification of penalties as described above. The amended safety orders/notification of penalties must be posted by an employer just as the original safety orders/notification of penalties were

#### **10. What happens when the safety orders/notice of penalties or abatement dates are certified to the Indiana Board of Safety Review?**

< IOSHA will be represented by its attorneys.

< If the notice of contest was filed by an employer, an affected employee or union representative may request PARTY STATUS, which entitles one to be notified of all hearing dates and times, to be provided copies of all pleadings, and to participate in the hearing. Such notice may be requested by sending a written request to the Indiana Board of Safety Review at the address or facsimile number provided below:

Indiana Board of Safety Review  
Indiana Department of Labor  
402 West Washington St., Room W195  
Fax: (317) 233-5381  
Indianapolis, IN 46204

< If the notice of contest was filed by an affected employee or union representative, an employer may request PARTY STATUS as described above.

< All pleadings should be served on all parties to the case.

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The Indiana Board of Safety Review may affirm, modify or dismiss any safety order item, penalty or abatement date.

## **11. How Are Hearings Conducted by the Board Of Safety Review?**

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Hearings will be conducted in accordance with the practice of the courts of Indiana, the Indiana Administrative Orders and Procedures Act (I.C. 4-21..5-1.1 et seq.), the Board of Safety Review Rules (615 IAC 1-1-1 et seq.), and the Indiana Open Door Act (I.C. 5-14-1.5 et seq.).

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The Indiana Board of Safety Review will mail notice of any hearing at least fifteen days before the date of the hearing to all parties, unless the Board orders an expedited hearing.

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EMPLOYERS must POST notices of hearing where the affected employees can review the notice UNTIL the HEARING STARTS.

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EMPLOYERS must DELIVER a copy of notices of hearing to a union representing the employees.

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The evidentiary hearing will be held by an administrative law judge and s/he will issue a written decision. That decision may be appealed to the full Indiana Board of Safety Review.

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It is important to comply with all orders and deadlines established by the Board of Safety Review. The failure to do so could result in the loss of your case before the opportunity to present evidence or argument at a hearing.

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Testimony presented to the Board of Safety Review must be under oath.

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Parties are usually given the opportunity to file written arguments concerning the evidence presented and the law.

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**FAILURE TO APPEAR AT A HEARING NOTICED BY THE BOARD OF SAFETY REVIEW, OR TO COMPLY WITH A DEADLINE ESTABLISHED BY THE BOARD, COULD RESULT IN THE SAFETY ORDERS/NOTIFICATION OF PENALTIES AND ABATEMENT DATES BECOMING FINAL AS ISSUED.**

## **12. WHAT IF I DON=T AGREE WITH THE DECISION OF THE BOARD OF SAFETY REVIEW?**

< You may seek judicial review of that decision in accordance with I.C. 4-21.5-5-5-2.

### 13. HOW AND WHEN DO I SUBMIT PROOF OF ABATEMENT / CORRECTIVE ACTION?

< On or before the abatement dates contained in the safety orders (unless contested), correct the hazardous conditions noted on the safety orders. (If the safety orders states that an item was "Corrected during inspection," no additional proof of that is required)

< On or before the abatement dates contained in the safety orders, utilize the Letter of Abatement form to inform IOSHA of the changes you have made in your workplace as a result of the safety orders.

- T State the safety order and item number in the space provided on the form.
- T State the OSHA standard referenced for that safety order item in the space provided on the form.
- T Then describe the changes you made to the workplace and the date(s) on which those changes were completed in the portion of the form marked A Corrective Action Taken and Date Abated. @

< Be sure to COMPLETE the certification at the bottom of the Letter of Abatement form.

CERTIFICATION	
"We the undersigned, hereby certify abatement was made"	
Signature of non-salaried or union representative	Title of non-salaried or union representative
Date signed	
Signature of management representative	Title of management representative
Date signed	

**Note: Signature of HOURLY EMPLOYEE AND MANAGEMENT OFFICIAL required.**

< In addition to submitting the Letter of Abatement form, you should submit evidence of the corrective actions you have taken.

- T If the correction is capable of being photographed, take a photograph of that action and include that photograph along with your description of the action taken.
- T If the corrective action is training employees, ask employees to sign and date a form describing the new training they have received and provide IOSHA with a copy of those signed and dated forms.
- T If the safety order required the development of a program, please provide a copy of that program.
- T If you are not sure what information to supply, call the director who signed your safety orders. (See page 6 for numbers.)

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## Sample Forms

[Letter of Abatement](#)

[Photo Mounting Work Sheet](#)

[Notice to Employees of Informal Conference](#)

[Request for Party Status](#)